
HOUSE BILL No. 1270

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-9-40; IC 6-9-41.

Synopsis: Greendale local taxes. Authorizes the city of Greendale to adopt an ordinance to impose a 1% food and beverage tax. Authorizes the city of Greendale to adopt an ordinance to impose an innkeeper's tax at a rate not to exceed 5% of lodging income.

Effective: Upon passage.

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January 14, 2008, read first time and referred to Committee on Ways and Means.

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Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE BILL No. 1270

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-9-40 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:

4 **Chapter 40. Greendale Food and Beverage Tax**

5 **Sec. 1. This chapter applies to a city:**

6 (1) located in a county having a population of more than
7 forty-six thousand one hundred eight (46,108) but less than
8 forty-six thousand two hundred fifty (46,250); and

9 (2) having a population of more than four thousand two
10 hundred (4,200) but less than four thousand three hundred
11 fifty (4,350).

12 **Sec. 2. The definitions in IC 6-9-12-1 apply throughout this**
13 **chapter.**

14 **Sec. 3. (a) The fiscal body of the city may adopt an ordinance to**
15 **impose an excise tax, known as the municipal food and beverage**
16 **tax, on transactions described in section 4 of this chapter.**

17 **(b) If the fiscal body adopts an ordinance under subsection (a),**

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the fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.

(c) If the fiscal body adopts an ordinance under subsection (a), the city food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance was adopted.

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location or on equipment provided by a retail merchant;
- (2) in the city in which the tax is imposed; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) food sold in a heated state or heated by a retail merchant;
- (3) made of two (2) or more food ingredients, mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
- (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or package used to transport the food).

(c) The city food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 5. The city food and beverage tax imposed on a food or beverage transaction described in section 4 of this chapter equals one percent (1%) of the gross retail income received by the merchant from the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

Sec. 6. A tax imposed under this chapter shall be imposed, paid,

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and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed with the payment of the tax imposed under this chapter may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 7. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the city fiscal officer upon warrants issued by the auditor of state.

Sec. 8. (a) If a tax is imposed under section 3 of this chapter by a city described in section 1 of this chapter, the fiscal officer of the city shall establish a food and beverage tax receipts fund.

(b) The fiscal officer of the city shall deposit in this fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

Sec. 9. (a) Except as provided in subsection (b), money in the fund established under section 8 of this chapter shall be used by the city for the purchase, financing, construction, leasing, operation, or maintenance of the following:

(1) City hall.

(2) Park or recreational facilities.

(3) Police, fire, and emergency medical services.

(b) The fiscal body of the city may pledge money in the fund to pay bonds issued, loans obtained, and lease payments or other obligations incurred by or on behalf of the city to provide the facilities and services described in subsection (a).

(c) A pledge under subsection (b) is enforceable under IC 5-1-14-4.

Sec. 10. With respect to obligations for which a pledge has been made under section 9(b) of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding.

Sec. 11. A city described in section 1 of this chapter faces unique economic development challenges. Maintaining low property tax rates is essential to economic development. Using food and beverage tax revenues as provided in this chapter instead of property taxes to support the economic and cultural development initiative described in section 9 of this chapter promotes that purpose.

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SECTION 2. IC 6-9-41 IS ADDED TO THE INDIANA CODE AS
A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
PASSAGE]:

Chapter 41. Greendale Innkeeper's Tax

Sec. 1. This chapter applies to a city:

- (1) located in a county having a population of more than forty-six thousand one hundred eight (46,108) but less than forty-six thousand two hundred fifty (46,250); and
- (2) having a population of more than four thousand two hundred (4,200) but less than four thousand three hundred fifty (4,350).

Sec. 2. The following definitions apply throughout this chapter:

- (1) "Executive" and "fiscal body" have the meanings set forth in IC 36-1-2.
- (2) "Gross retail income" and "person" have the meanings set forth in by IC 6-2.5-1.

Sec. 3. (a) The fiscal body of the city may levy a tax on every person engaged in the business of renting or furnishing, for periods of less than thirty (30) days, any room or rooms, lodgings, or accommodations in any:

- (1) hotel;
- (2) motel;
- (3) boat motel;
- (4) inn;
- (5) college or university memorial union;
- (6) college or university residence hall or dormitory; or
- (7) tourist cabin;

located in the city.

(b) The tax does not apply to gross income received in a transaction in which:

- (1) a student rents lodgings in a college or university residence hall while that student participates in a course of study for which the student receives college credit from a college or university located in the city; or
- (2) a person rents a room, lodging, or accommodations for a period of thirty (30) days or more.

(c) The tax may not exceed the rate of five percent (5%) on the gross retail income derived from lodging income only and is in addition to the state gross retail tax imposed under IC 6-2.5.

(d) A tax imposed under this chapter shall be imposed, paid, and collected in exactly the same manner as the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

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(e) All of the provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration are applicable to the imposition and administration of the tax imposed under this chapter except to the extent those provisions are in conflict or inconsistent with the specific provisions of this chapter. The return to be filed for the payment of the tax under this section may be a separate return or may be combined with the return filed for the payment of the state gross retail tax as the department of the state revenue may, by rule, determine.

(f) The amounts received from the tax imposed under this section shall be paid monthly by the treasurer of state to the fiscal officer of the city upon warrants issued by the auditor of state.

Sec. 4. If a tax is levied under section 3 of this chapter, the fiscal officer of the city shall establish an innkeeper's tax receipts fund. The fiscal officer of the city shall deposit in this fund all amounts collected under this chapter.

Sec. 5. (a) Except as provided in subsection (b), money in the fund established under section 4 of this chapter shall be used by the municipality for the purchase, financing, construction, leasing, operation, or maintenance of the following:

- (1) City hall.
- (2) Park or recreational facilities.
- (3) Police, fire, and emergency medical services.

(b) The fiscal body of the city may pledge money in the fund to pay bonds issued, loans obtained, and lease payments or other obligations incurred by or on behalf of the city to provide the facilities and services described in subsection (a).

(c) A pledge under subsection (b) is enforceable under IC 5-1-14-4.

Sec. 6. With respect to obligations for which a pledge has been made under section 5(b) of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding.

Sec. 7. A city described in section 1 of this chapter faces unique economic development challenges. Maintaining low property tax rates is essential to economic development. Using innkeeper's tax revenues as provided in this chapter instead of property taxes to support the economic and cultural development initiative described in section 5 of this chapter promotes that purpose.

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1 **SECTION 3. An emergency is declared for this act.**

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